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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/304,406	05/04/1999	RALPH E. SIPPLE	33012/263/10	9618

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/304,406

Applicant(s)

SIPPLE ET AL.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 3/31/05 have been fully considered but they are not persuasive.

Applicant argues that Baker does not teach a transaction server which spools video into memory and video servers which stream the video to the users (response pages 11-13).

Regarding applicants argument, Baker discloses that control server 54, receives user requests, and is thus coupled to subscriber receivers, coordinates the access of multiple servers to the video library, thus having a connection to the database storage system and temporary video storage memory 38 (column 10, lines 37-64). The claims merely require the server to be coupled to the database, temporary storage and subscriber receivers and do not require a direct connection. Likewise, claim 1 requires that the server spools the programs from the database storage to video storage memory, there is no mention of direct access in claims 1 or 6 as argued by applicant. As the control server 54 of Baker coordinates, controls and administers the access of the video servers 12 to the database storage via the application software (column 10, lines 29-36, 64-column 11, line 21), control server 54 spools the data from the database storage to temporary video storage memory as required by claim 1.

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Applicant argues that the identifying means, spooling means and streaming means are all incorporated in a signal entity , server 12 of Baker (response page 14).

Regarding applicants argument, Baker clearly discloses:

Identifying means 54 (column 10, lines 53-60) responsively coupled to said generating means and said storing means 10 for identifying a number of said plurality of video programs stored within said storing means corresponding to said plurality of different requested video on demand signals;

Spooling means 38 responsively coupled to said identifying means and said storing means for spooling said corresponding number of said plurality of video programs which said identifying means identifies (column 8, line 61-column 9, line 3, 54-58) and

A plurality of streaming means 18 (column 10, lines 40-44) responsively coupled said spooling means and said receiving means for streaming said spooled number of said plurality of video programs corresponding to said plurality of different requested video on demand signals to said plurality of generating means 22.

As Baker discloses that each separate component performs each function, Baker clearly teaches identifying means, spooling means and streaming means.

Applicant argues that Baker does not disclose a transaction gateway, and that the examiner explicitly admits that baker does not disclose a transaction gateway (response page 15).

Regarding applicant's argument, the Applicant through selective quoting is clearly ignoring portions of the examiners rejection. In particular, the examiner noted in the previous action that Baker does not teach the use of a transaction gateway in a middleware environment as required by claim 2. As noted in the previous office action, Baker discloses that video server 12 or Control server 54 acts as a transaction gateway (column 7, lines 28-55, Figure 4, column 10, line 56-column 11, line 22). That is to say, server 54, acts as a point which routes and handles traffic two different networks, in particular, server 54, receives requests from the telephone network and then interfaces with a local, network. Bennet is relied upon to teach the use of a middle ware environment in a VOD system.

Applicant argues that Baker does not teach the identifying means as being a Unisys server (response page 16).

Regarding applicants argument, Baker discloses that either video server 12 or controls server 54 may act as a transaction gateway, and that video server 12, which may be a Unisys 2200 series computer, and control server 54 utilize common application software (column 10, lines 28-63), and only discloses utilizing open API's within the applications software to interface with the video library (column 11, lines 1-21), control server 54 must be a Unisys mainframe.

Applicant argues that the examiner has ignored the transaction server limitation in claims 17-20 (response pages 16-17).

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Regarding applicant's argument, Baker discloses that control server 54, which acts as the transaction server, receives the viewer service requests in the embodiment shown in figure 3 instead of the video server 12 in order to utilize load balancing (column 10, lines 53-60).

Applicant argues that there is not motivation to combine Baker with Bennet, in that Baker already contains the same features (response pages 18-20).

In response to applicants argument, and previously addressed, the video servers 12, make use of an open API to interface with the video library, and are silent between the use of an open interface, or middle ware environment between the transaction server (control server 54) and the video servers 12. Claim 2, requires the transaction server to operate in a middleware environment. Bennett discloses in Figure 2, a VOD system with a gateway server 220 coupled to a media server 232 which runs a VOD server 234, all of which are interconnected via a CORBA middleware environment 226 (column 5, lines 9-56). Corba provides an interoperability environment, which enables applications on different machines to be seamlessly interconnected (column 5, lines 34-40). Bennet is cited merely to teach the use of a middleware environment in a VOD type service. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Baker to utilize the middleware environment of Bennett thus enabling applications on different machines to be seamlessly interconnected. As a result, the combination of Baker and Bennet meet the requirements of claim 2.

Applicants traverse the official notice taken in claim 3 (response page 21).

The examiner has replaced the official notice with cited portions of Baker which teach the transaction server being a mainframe computer.

Applicant argues the spooling of Baker in regards to claim 5 (response page 21).

Applicant's arguments have been addressed above.

Applicant argues that because claim 8 has different limitations and scope than claim 2, the rejection of claim 8 is inadequate (response page 22).

Regarding applicant's argument, claim 8, includes identical claim limitations as claim 2, but includes the subject matter of claim 7. The same cited portions of Baker and Bennet discussed in claim 2, apply to claim 8 for the same reasons. The applicant fails to specifically address how the rejection of claim 2 is different than the rejection of claim 8 and how the cited portions of Baker and Bennet would not apply to claim 8.

Applicant argues that there is no expectation of success in the combination of claim 25 between Baker, Bennet and Wilcox (response page 23).

Applicant has failed to substantiate Applicant's claim that there is no Expectation of Success beyond a simple statement. Per MPEP 2143.02 and as the Examiner has provided motivation and demonstrated obviousness to combine the references in the previous office action and repeated below, and as the electrical arts are predictable arts, and the Applicant has provided no evidence that suggests there is no reasonable

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expectation of success, the Examiner has carried the initial burden of factually supporting the prima facie conclusion of obviousness. In particular, Baker discloses the use of a VOD system which utilizes a telephone interface to make requests, but fails to disclose the use of a pizza delivery application. Wilcox discloses in figures 30-47 a pizza delivery application, which enables a user to order a pizza, thus enabling a user to order a pizza without making a telephone call. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Baker to include the pizza-ordering interface of Wilcox, thus enabling a user to order a pizza without making a telephone call.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,6 and 11-24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,583,561 to Baker

Regarding claim 1, Baker discloses in Figure 1-3 a video on demand system for supplying video data to a plurality subscriber receivers 22 via a program delivery network, the improvement comprising:

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A data base storage system 10 (video server 12 coupled to disks 10, column 10, lines 44-46) containing a plurality of video on demand programs;

A temporary video storage memory 38 (figure 2, column 8, line 61-column 9, line 3, 54-58);

A transaction server 54 (column 10, lines 37-64) responsively coupled to said data base storage system 12, said temporary video storage memory 38, and said plurality of subscriber receivers 22 whereby each of said plurality subscriber receivers requests a different video on from said transaction server and said transaction server spools said different video on data base storage to said temporary demand programs from said video storage memory (column 7, lines 45-55, column 9, lines 1-4); and

A plurality of video servers 12 (figure 3) responsively coupled to said transaction server 54 and said plurality of subscriber receivers 22 via said program delivery network wherein said plurality of video servers are assigned by said transaction server to stream said spooled different video on demand programs from said temporary video storage memory to said plurality of plurality of video servers subscriber receivers via said program delivery network (column 10, lines 37-64).

Regarding claim 6, Baker discloses in Figures 1-3, an apparatus comprising:

A plurality of subscribing receivers 22, each capable of providing a plurality of service requests (column 6, lines 12-37, column 8, lines 19-24)

A data base storage system 10 (video server 12 coupled to disks 10, column 20, lines 44-46) containing a plurality of video on demand programs;

A temporary digital storage memory 38 (figure 2, column 8, line 61-column 9, line 3, 54-58);

A transaction server 54 (column 10, lines 37-64) responsively coupled to said data base storage system 12 and said plurality of subscriber receivers 22, capable of receiving said plurality of service requests, accessing said plurality of video programs corresponding to the service requests from said database storage system (column 7, lines 45-55, column 9, lines 1-4); spooling into memory 38 (column 8, line 61-column 9, line 3, 54-58); and

A plurality of video servers 12 (figure 3) responsively coupled to said transaction server 54 and said plurality of subscriber receivers 22 via said program delivery network wherein said plurality of video servers are assigned by said transaction server to stream said spooled different video on demand programs from said temporary video storage memory to said plurality of plurality of video servers subscriber receivers via said program delivery network (column 10, lines 37-64).

Regarding claim 11, Baker discloses a VOD system in figures 1-3 comprising:

Storing means 10 for storing a plurality of video programs (column 20, lines 44-46);

Plurality of generating means 22 for generating a plurality of different requested video on demand signals (column 6, lines 12-37, column 8, lines 19-24);

Identifying means 54 (column 10, lines 53-60) responsively coupled to said generating means and said storing means 10 for identifying a number of said plurality of

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video programs stored within said storing means corresponding to said plurality of different requested video on demand signals;

Spooling means 38 responsively coupled to said identifying means and said storing means for spooling said corresponding number of said plurality of video programs which said identifying means identifies (column 8, line 61-column 9, line 3, 54-58) and

A plurality of streaming means 18 (column 10, lines 40-44) responsively coupled said spooling means and said receiving means for streaming said spooled number of said plurality of video programs corresponding to said plurality of different requested video on demand signals to said plurality of generating means 22 wherein said spooling means assigns one or said plurality of streaming means to stream said spooled number of said plurality of video programs to said plurality of generating means (column 10, lines 44-64).

Regarding claim 12, Baker discloses that a subscriber receives the VOD program on a receiver (decoder 22, column 8, lines 18-41).

Regarding claim 13, Baker discloses that video server 12 or Control server 54 acts as a transaction gateway (column 7, lines 28-55, Figure 4, column 10, line 56-column 11, line 22).

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Regarding claim 14, Baker discloses that video server 54 processes subscriber transactions (column 10, lines 54-64).

Regarding claim 15, Baker discloses that video server 12 is a Unisys mainframe (column 8, lines 42-48).

Regarding claim 16, Baker discloses a method of providing video on demand services (figure 8) comprising:

Storing a plurality of video programs in a video storage facility 10 (column 6, lines 37-49);

Receiving a video on demand request from a subscriber 22 at a transaction server 54 (column 10, lines 54-64);

Determining a one of said plurality of video programs corresponding to said video on demand request (column 10, lines 54-64);

Spooling said one of said plurality of video programs corresponding to said video on demand request from said video storage facility 10 into a temporary storage facility 38 (column 8, line 61-column 9, line 3, 54-58) by said transaction server (column 10, lines 29-36, 64-column 11, line 21, control server 54, controls access to the video servers and instructs the video servers 12 when to load a program into memory);

Assigning one of a plurality of video servers 12 responsively coupled to subscriber to stream said one of said plurality of video programs corresponding to said video on demand request to said subscriber (column 10, lines 54-64); and

Streaming said spooled video program from said temporary video server to said storage facility by said assigned subscriber (column 10, lines 54-64).

Regarding claim 17, Baker discloses that the VOD stream may be paused in response to a viewer command (column 12, lines 7-17).

Regarding claim 18, Baker discloses that the VOD stream may be rewound in response to a viewer command (column 12, lines 7-17).

Regarding claim 19, Baker discloses in Figure 8, that a user make issue a forward request 132 (column 16, lines 5-9).

Regarding claim 20, Baker discloses that video server 12 performs subscriber accounting and bills a subscriber for a VOD program request (column 7, lines 33-51).

Regarding claim 21, Baker discloses an apparatus for delivering video on demand programs to a plurality of requesters 22 comprising:

a software controlled transaction server 54 responsively coupled to said plurality of requesters 22 which manages an interface between said apparatus and said plurality of requesters (column 10, lines 54-64);

a storage facility 10, which contains a plurality of video programs (column 6, lines 37-49);

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a temporary memory 38 (column 8, line 61-column 9, line 3, 54-58) wherein said software controlled transaction server 54 spools a requested one of said plurality of video programs requested by one of said plurality of requesters (column 10, lines 54-64);

a plurality of video servers 12 (column 10, lines 38-44) from which said software controlled transaction server 54 assigns a particular one of said plurality of video servers 12 wherein said particular one of said plurality of video servers streams said requested one of said plurality of video programs from said temporary memory to said one of said plurality of requesters (column 10, lines 54-64).

Regarding claim 22, Baker discloses a plurality of video program sources 10 responsively coupled to said software controlled transaction server which stores said plurality of video programs from said plurality of program sources in said storage facility (figures 1-3).

Regarding claim 23, Baker shows in figure 1, a network 20, from which video server 12 streams video from storage 10 to decoder 22.

Regarding claim 24, Baker shows that requests originate from subscriber STB 22 (column 10, lines 56-64).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,583,561 to Baker in view of U.S. Patent 5,826,085 to Bennett.

Regarding claim 2, Baker discloses a VOD system.

Baker does not disclose a transaction gateway in a middleware environment and a video server frame and stream spooling program coupled to the transaction gateway in a middleware environment.

Bennett discloses in Figure 2, a VOD system with a gateway server 220 coupled to a media server 232 which runs a VOD server 234, all of which are interconnected via a CORBA middleware environment 226 (column 5, lines 9-56). Corba provides an interoperability environment, which enables applications on different machines to be seamlessly interconnected (column 5, lines 34-40).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Baker to utilize the middleware environment of Bennett thus enabling applications on different machines to be seamlessly interconnected.

Regarding claim 3, Baker discloses that video server 12 may be a mainframe system (column 8, lines 43-51) and discloses in Figure 3 that the mainframe (video

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server 12) may be coupled to a transaction server 54 (control server 54, column 10, lines 38-63), additionally the mainframe can act as a transaction server in of itself (column 7, lines 28-55). Additionally Baker discloses that video server 12, which may be a Unisys 2200 series computer, and control server 54 utilize common application software (column 10, lines 28-63), and only discloses utilizing open API's within the applications software to interface with the video library (column 11, lines 1-21), control server 54 must be a Unisys mainframe.

Regarding claim 4, Baker discloses that video server 12 may be a Unisys mainframe system (column 8, lines 43-51).

Regarding claim 5, Baker discloses that the transaction server may spool the video (column 8, line 61-column 9, line 3) and that the format can be MPEG 2 (column 7, lines 9-16).

Regarding claim 7, Baker discloses that video server 12 performs subscriber accounting and bills a subscriber for a VOD program request (column 7, lines 33-51).

Regarding claim 8 see claim 2.

Regarding claim 9, Baker discloses that the transaction server may spool the video (column 7, line 45-55) and that the format can be MPEG 2 (column 7, lines 9-16).

Regarding claim 10, Baker discloses that video server 12 may be a Unisys mainframe system (column 8, lines 43-51). See claim 3.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,583,561 to Baker in view of U.S. Patent 6,678,891 to Wilcox.

Regarding claim 25, Baker discloses a VOD ordering system.

Baker fails to disclose enabling a requester to request delivery of a pizza.

Wilcox discloses in figures 30-47 a pizza delivery application, which enables a user to order a pizza, thus enabling a user to order a pizza without making a telephone call.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Baker to include the pizza-ordering interface of Wilcox, thus enabling a user to order a pizza without making a telephone call.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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HBL

A handwritten signature in black ink, appearing to read 'Chris Grant', with a stylized flourish at the end.

CHRIS GRANT  
PRIMARY EXAMINER